IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 909 OF 2006

Hitendra P. Patel & Ors. .. Petitioners.

vs.

The State of Maharashtra

& Ors. .. Respondents.

Shri Ashok Mishra for Petitioners.

Mrs. A.S. Pai, APP., for State.

Mr. Vival Amim i/by M/s. B.Amin & Co.

for Respondent Nos. 2 to 7.

CORAM : J.N. PATEL, AND

SMT. ROSHAN DALVI, JJ.

DATE : 20th September, 2006.

P.C.

. Heard.

2. The learned APP, after seeking instructions from PSI M.M. Pradhan of Varsova Police Station, submits that in so far as investigation part is concerned, the police has filed a charge sheet in the Court of Metropolitan Magistrate, 44th Court, Andheri on 13.3.2004. Therefore, nothing survives

in the matter in so far as respondent No. 1 is concerned. As regards the other respondents the learned counsel for the respondents submits that the matter was compromised between the parties and the respondent no. 3 Smt. Shantabai Purushottamdas Patil, who has filed the complaint, has been put in possession by the petitioner no. 1 which has been recorded in the undertaking given to the Metropolitan Magistrate, Railway Mobile Court at Andheri where C.C. No. 49/N/05 was pending and, therefore, the petitioner has no grievance in the matter. The petitioner and the complainant have no grievance in the matter and, therefore, they seek an order from this Court to quash the proceedings pending before the Court i.e. the Criminal Case No. 153/MISC/2004.

3. In view of the fact that the parties have compromised and settled the issue of possession, and have no grievance against each other, no purpose would be served in prosecuting the complaint case filed by the respondent Shantabai in the Court of Metropolitan Magistrate, 44th Court, Andheri. Rather, it would subserve the cause of justice if the complaint case is quashed and set aside. Therefore, we quash and set aside the Criminal Case No. 153/MISC/2004.

4. The certified copy of the undertaking and

the order passed thereon is taken on record and marked "X" for identification.

5. The Petition is disposed of as infructuous.

(J.N. Patel, J.)

(Smt. Roshan Dalvi, J.)